IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

Bail Appl..No. 6361 of 2007()

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CR.NO. 610/07 OF HOSDURG POLICE STATION

PETITIONER/ACCUSED

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V.V.RAJEEVAN,AGED 32 YEARS,
S/O.LATE KUNHIRAMAN, R/AT KURUNTHOOR,
KANHANGAD VILLAGE \, P.O. PADANNEKKAD,
KASARAGOD DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANT & STATE

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1. STATE REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

2. STATION HOUSE OFFICER
(CR.NO.610 OF 2007 OF HOSDURG POLICE STATION)
KASARGOD DISTRICT.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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B.A.No. 6361 of 2007

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Dated this the 22nd day of October, 2007

**O R D E R**

Application anticipatory bail. The petitioner faces allegations under Sections 3 and 7 of the Essential Commodities Act and the provisions of the Kerala Kerosene Control Order. The crux of the allegations against the petitioner is that he was allegedly found to keep in his possession 795 litres of kerosene in a house. On seeing the police party, he allegedly took to his heels and could not be apprehended. The seizure mahazar as well as the F.I.R. registered clearly indicate the complicity of the petitioner. He is referred to as the one who had ran away from the scene.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. According to the petitioner he resides in another house and the house, from where recovery is effected, is not that of the petitioner.

3. The learned Prosecutor opposes the application. He submits that the prosecution has no case that the petitioner resides in that house. Even according to the prosecution it is an unoccupied house belonging to some other person. Investigation is in progress. The

petitioner has to be interrogated. There is absolutely no justification to grant anticipatory bail to the petitioner, submits the learned Prosecutor.

4. I have considered all the relevant inputs. I shall carefully avoid any detailed discussion on merits about the acceptability of the allegation raised or the credibility of the data collected. Suffice it to say that I am unable to find any features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This I am satisfied is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

**(R. BASANT)**
Judge

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